



SEO Terms of Services Agreement

Introduction

In this Pro Website Creators Master Services Agreement (“Agreement”), we try to write everything in plain English, and to do that we use terms like “we”, “us” and “you” a lot. “We” and “us” means Pro App Creators, LLC, dba Pro Website Creators. We are a limited liability corporation in the State of California. The “You” in this Agreement is you, our Client. Both you and us are called, “the parties.”

Occasionally in this Agreement you will see an FYI. These are helpful tips that we offer from our long experience of working with clients and seeing web projects through to completion. You will also frequently see some italicized text that designates an important point we don’t want you to miss.

There are some unavoidable legalese at various places in this Agreement. Sorry. Our attorney required it. If you need assistance translating, just ask.

The Project

You are hiring us to complete your project according to the specific scope of work we described in this estimate of services document. The proposed cost of the project in this document includes only this work. This may include web design, social media set-up, and content management, SEO, e-newsletters, writing projects, lead generation, graphic design, and/or other digital marketing projects as outlined in the Estimate of Services.

We want you to be completely satisfied with our services, and we understand that sometimes changes to the project will occur. If you elect to make changes to the original scope of the project, normally additional costs will be involved. FYI, making changes early in the project is often less expensive than making changes toward the end of the project.

Estimate of Services

This entire estimate of services details the work to be provided to you by us, including without limitations, the deliverables and specifications thereto, and any and all compensation to be paid for such work. If additional services are requested by the Client, the parties may enter into other such Estimate of Services signed by the parties. Notwithstanding the foregoing, the terms of any Estimate of Services entered into between the parties, shall be in addition and supplemental to the terms of this Agreement. If there is a conflict between the Agreement and any Estimate of Services, the terms of this Agreement shall be binding.

Written Notices

From time-to-time in this Agreement, we refer to a “written notice” or “written permission”. This normally means email communication. However, a letter written from you and delivered to our address via any delivery service will also qualify as a written notice or written permission.

Part A: SEO Services Design

Do It Yourself

With the “Do It Yourself” SEO service, you are responsible for all of the actions for implementing the recommended SEO changes our tools provide.

Upon payment, you’ll be given access to our SEO software from which you can implement SEO changes.

You may contact us and have us do some of the work for you at additional cost.

Done With You

With the “Done With You” SEO service, you get everything in the “Do It Yourself” service, but with several consultations and assistance according to the features stated on our website at the time when you signed up.

Done For You

With the “Done For You” SEO service, you get everything in the “Done With You” service, but we take care of everything for you according to the features stated on our website at the time when you signed up.

Consultations and Information exchange

We have several types of consultation meetings that are included in various SEO packages, and you are expected to fully participate and be invested in them. Those consultations will have expectations of you in order for you to be successful with SEO; failure to abide by them will cause poor, or even non-existent, results.

We will also need you to respond in a timely fashion to requests for information that include, but are not limited to, your business metrics, your clients so that we may achieve reviews for your site, your responses to requests for interviews, approval of various reachout templates, your approval for site content changes/additions, etc.

Time Frames

It is our experience that to see a bump in traffic due to SEO services can take as long as six months. This is a rough estimate and depends on a number of factors, including the complexity of your project, the level of competition for chosen keywords, the ability of you and us to deliver appropriate content targeting those keywords, and the package for which you've signed up. Work does not begin until we receive this signed agreement from you, all required materials, and the first payment is made.

We do have an active queue of work and we do not place your project in that queue until your initial payment has been received (see below). While we endeavor to start your project quickly, we will not begin your project until it reaches the front of our queue so that it can receive our full attention.

While we are waiting for your response, we will normally begin to work on other projects to make efficient use of our time. **IF YOU TAKE A WHILE TO RESPOND, IT'S FINE WITH US, BUT IT MIGHT BE A FEW DAYS (OR POSSIBLY A FEW WEEKS) BEFORE WE CAN GET YOUR PROJECT BACK INTO THE QUEUE. PLEASE ALSO SEE BELOW CONCERNING SUSPENDED AND ABANDONED PROJECTS.**

Fees and Payments

In consideration of the development services to be provided hereunder, the parties agree that the Company shall be paid in accordance with the Estimate of Services in this document, or any other such additional Estimates of Services executed by the Parties pursuant to this Agreement.

Unless stated differently in the Estimate of Services, our payment terms are for a fixed amount each month.

If any payment does not go through, we will attempt to contact you for a payment arrangement. If arrangements are not made by the 5th business day after this unsuccessful payment, we will consider your project Suspended. Please see the section below regarding Suspended and Abandoned Projects.

The payment methods we accept are all major credit cards. If you pay the entirety upfront, then we will also accept PayPal, bank transfer, and/or check.

Current Hourly Rate

Throughout this document, reference is made to the current hourly rate. This rate is defined as our hourly rate that is in place at the time a service is requested (not at the time this Agreement is signed) and is specified for your project in the attached Estimate of Services.

Late Payment and Collections Policy

Amounts due and unpaid shall bear interest at the rate of twelve percent (12%) per annum. You agree to pay all costs of collection, including reasonable attorney's fees, as additional sums owed under this Agreement. Client further acknowledges and agrees that if a check tendered for payment is not honored by the bank for non-sufficient funds ("NSF"), it will not be re-deposited. If the bank does not clear the check, you will incur a NSF fee of \$25. You must then immediately send a certified check or money order for the amount due, including the NSF fee, to cover the returned check. Postdated checks are not an acceptable form of payment.

Refunds

If you wish to cancel the project after this agreement has been executed, monies paid up to that point in time are non-refundable for any reason. Period. We really hate to get fussy about these things, so please be sure you are ready to hire us before you sign off to begin your project.

Suspended and Abandoned Projects

We REALLY want to finish your SEO project to help you grow your online presence – it's critical for you and for us! Although we do know that sometimes things get in the way of completing a project, we have to put some boundaries in place to keep delays from going on forever.

If work on a project is delayed more than 60 days due to your inability to provide content, images, media or other items necessary for the completion of the project, OR you have not responded to our requests, the project shall be considered suspended. At that time, work will be halted immediately.

WE WILL ATTEMPT TO COMMUNICATE WITH YOU BY PHONE AND/OR EMAIL DURING THE 60 DAYS PRIOR TO PROJECT SUSPENSION. ONCE A PROJECT IS CONSIDERED SUSPENDED, IT IS THE SOLE RESPONSIBILITY OF THE CLIENT TO REACTIVATE THE PROJECT BY (1) SUPPLYING ALL ITEMS

NECESSARY TO COMPLETE THE PROJECT AND (2) PAYING THE OUTSTANDING BALANCE OF THE PROJECT IN FULL.

After a project is considered suspended, we will not perform any additional work on the project until full payment of the project balance has been received.

If all the required materials/approvals are provided within 60 days of the project being considered suspended, we will complete the project according to the original scope and proposed costs. If all the required materials/approvals are provided and the project balance is paid in full more than 60 days, but less than 120 days, after the project is considered suspended, a new Estimate of Services shall be created to complete the remaining scope of the project, subject to our discretion. The balance paid when the project was suspended shall be considered as a credit against the cost specified in this new Estimate of Services.

If all the required materials/approvals have not been provided and/or and the project balance has not been paid in full within 120 days of the project being considered suspended, the project shall be considered abandoned, and **any monies paid to us for the project shall be forfeited.**

The Use of Third Party Images and Photography

If you provide us with images or photography for use on your website, securing the appropriate license to use them is your responsibility. You assume the full risk of liability for the use of those images. If you are in doubt of the licensing status of an image, contact the original artist before providing it for us to use in your design project.

You agree not to include any images on your website (like those found on Google's image search) without securing approval from the copyright holder for the image or determining that the image is in the public domain.

Certain media companies, like Getty Images, employ software that combs the Internet for websites using their images without a license. Many small businesses have received demand letters for thousands of dollars because they used a single copyrighted image, even innocently, on their websites. This is a common occurrence. Search for "Getty Images letter" and find hundreds of horror stories from small businesses.

An investment in professional photography can make a significant difference in the visual impact your website has on a visitor. We work with several photographers at varying price points should you desire this service.

If you do not have professional photography and do not desire to employ a photographer, we often utilize royalty-free images obtained from stock photo websites. The cost of licensing this stock photography is not included in the Estimate and is billable on a quarterly basis. We will ask for your written or email approval before purchasing any stock photography. It's usually very reasonably priced.

Terms of Use, Policies and Other Legal Pages

Depending on the nature of your site and your location, legal pages such as Terms of Use and policy pages such as Privacy Policy, Return Policy, etc. may be required for your site by government entities, vendors, or licensing agencies. It is your sole responsibility to determine whether such pages are required, and the creation of such pages is not included in the Estimate of Services for your new website unless specifically itemized. You should consult an attorney to determine your responsibilities in this matter.

Intellectual Property (Who Owns What)

Any custom graphics, images, or photography we develop belongs to you as it is displayed on your website. If you require high-resolution versions of any images or photographs we develop (for use in print, advertising, merchandise, etc.), additional licensing may be required. And again, we're easy to work with on this.

When we utilize images or other content that are licensed for use on your website by a third party, that party retains ownership of the content in question according to the terms of their own license agreements. For example, if we use a stock photo on your site, you typically pay for the license to use the photo on your site but you do not own that photo. If you have questions about licensing issues like this, just ask.

Third-Party Services

From time to time, you might employ the services of a third party that involves modifications on your website. **PRO WEBSITE CREATORS CANNOT BE RESPONSIBLE FOR THE WORK OF A THIRD PARTY.** Should our services be necessary due to any work performed by a third party, these services are billable at our current hourly rate.

Disclosure to Law Enforcement

We may disclose information about you to law enforcement agencies without further consent or notification to you, upon lawful request from such agencies. We will cooperate fully with law enforcement agencies.

Marketing and Attribution Link

We reserve the right to use your project as an example in our promotional material and case studies. At the end of your project, we may ask you for a quote describing your experience working with us. We may also ask you to be a reference should any future clients desire to speak with people we've worked with in the past.

Part B: General Provisions

Confidentiality

The parties acknowledge that in connection with this Agreement either party may receive certain confidential or proprietary technical and business information and materials of the other party. Each party, its agents and employees shall hold and maintain in strict confidence all Confidential Information, shall not disclose Confidential Information to any third party, and shall not use any Confidential Information, except as may be necessary to perform its obligations under this Agreement and the Estimate of Services, and except as may be required by a court or governmental authority. Notwithstanding the foregoing, Confidential Information shall not include any information that is in the public domain or becomes publicly known through no fault of the receiving party or is otherwise properly received from a third party without an obligation of confidentiality.

Indemnification

You agree to indemnify us and hold us harmless including our subsidiaries, contractors, employees and affiliates and each of their respective directors, officers, employees, shareholders and agents (each an "Indemnified Party") against any losses, claims, damages, liabilities, penalties, actions, proceedings, judgments, or any and all costs thereof (collectively, "Losses") to which an Indemnified Party may become subject and which Losses arise out of, or relate to the Agreement, your use of the Services, breach of any confidentiality obligation, or any alleged infringement of any trademark, copyright, patent or other intellectual property right. You agree to reimburse an Indemnified Party for all legal and other expenses, including reasonable attorneys' fees incurred by such Indemnified Party, in connection with investigating, defending, or settling any Loss, whether or not in connection with pending or threatened litigation in which such Indemnified Party is a party.

Choice of Law and Arbitration

This Agreement, and any related Statements of Work, shall be construed in accordance with and governed by, the laws of the State of California without regard to Conflict of Law principles. In the event of any dispute or disagreement with respect to the meaning, effect or interpretation of this Agreement, or in the event of a claimed breach of this Agreement, the parties hereto agree that such dispute shall be determined by binding arbitration conducted by the American Arbitration Association pursuant to its commercial arbitration rules. The arbitration shall be conducted in Orange County, California unless both parties agree in writing to a different location. The arbitration award is enforceable as a judgment of any court having proper jurisdiction.

Termination

This Agreement may be terminated by either party upon written notice for any of the following:

- (a) upon five (5) days prior written notice by either party to the other party, or

- (b) if the other party defaults in the performance of any material provision of this Agreement, which default is not cured within thirty (30) days after written notice from the non-defaulting party.

Refusal or Discontinuation of Service

We reserve the right to refuse, restrict, or terminate service to you for any reason or for no reason at all. If service is terminated, a refund of the unused amount will be given to you.

Disclaimer of Warranty

WE WILL NOT BE LIABLE FOR ANY LOSS OR DAMAGE CAUSED BY A DISTRIBUTED DENIAL-OF-SERVICE ATTACK, VIRUSES OR OTHER TECHNOLOGICALLY HARMFUL MATERIAL THAT MAY INFECT SERVER EQUIPMENT, COMPUTER PROGRAMS, DATA OR OTHER PROPRIETARY MATERIAL.

WE HEREBY DISCLAIM ALL WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, INCLUDING BUT NOT LIMITED TO ANY WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT AND FITNESS FOR PARTICULAR PURPOSE. THE FOREGOING DOES NOT AFFECT ANY WARRANTIES WHICH CANNOT BE EXCLUDED OR LIMITED UNDER APPLICABLE LAW.

Limitation of Damages or Liability

IN NO EVENT WILL THE COLLECTIVE LIABILITY OF PRO APP CREATORS, LLC, ITS AFFILIATES AND ITS LICENSORS, SERVICE PROVIDERS, EMPLOYEES, AGENTS, OFFICERS, AND DIRECTORS BE LIABLE FOR DAMAGES OF ANY KIND, UNDER ANY LEGAL THEORY, FOR HARM CAUSED BY OR RELATED TO THE CUSTOMER'S SERVICES OR INABILITY TO UTILIZE THE SERVICES, INCLUDING ANY DIRECT, INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES, INCLUDING BUT NOT LIMITED TO, PERSONAL INJURY, PAIN AND SUFFERING, EMOTIONAL DISTRESS, LOSS OF REVENUE, LOSS OF PROFITS, LOSS OF BUSINESS OR ANTICIPATED SAVINGS, LOSS OF USE, LOSS OF GOODWILL, LOSS OF DATA, AND WHETHER CAUSED BY TORT (INCLUDING NEGLIGENCE), BREACH OF CONTRACT OR OTHERWISE, EVEN IF FORESEEABLE.

THE FOREGOING DOES NOT AFFECT ANY LIABILITY WHICH CANNOT BE EXCLUDED OR LIMITED UNDER APPLICABLE LAW.

Notwithstanding anything else in this Master Services Agreement, you agree that the maximum aggregate liability of Pro App Creators, LLC, and any of its employees, agents, contractors or affiliates, under any theory of law should not exceed the amount of fees it has collected on the customer's account in the last six months.

Severability

Whenever possible, each provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Agreement is held invalid or unenforceable, the remainder of this Agreement shall nevertheless remain in full force and effect and the invalid or unenforceable provision shall be replaced by a valid or enforceable provision.

Headings

The headings in this Agreement are inserted solely for convenience and reference only and shall not affect the scope, meaning intent, or interpretation of the provisions of this Agreement.

Entire Agreement

This Estimate of Services constitutes the entire agreement and understanding of the parties with respect to the transactions contemplated hereby and supersedes any and all prior agreements and understandings relating to the subject matter hereof. This Estimate of Services may not be waived, assigned, extended, amended, supplemented, or modified orally, but only by a written instrument signed by the parties.

Modifications

This Agreement may not be changed or modified except in writing signed by the parties.

Assignability

Neither us nor you may assign or transfer rights and obligations under this Agreement without the prior written consent of the other.

Force Majeure

Neither you nor Pro App Creators, LLC shall be liable to the other for any delay or failure to perform any obligation under this Agreement if the delay or failure is due to unforeseen events which are beyond the reasonable control of such party, such as strikes, blockade, war, terrorism, riots, natural disasters, and/or refusal of license by the government, insofar as such an event prevents or delays the affected party from fulfilling its obligations and such party is not able to prevent or remove the force majeure at reasonable cost. Upon the occurrence of any such events, Pro App Creators, LLC shall give notice to you of its inability to perform, or of delay, and shall propose revisions to the schedule for completion of your project.

